

AMENDED IN ASSEMBLY MAY 13, 2003

AMENDED IN ASSEMBLY APRIL 30, 2003

AMENDED IN ASSEMBLY APRIL 24, 2003

AMENDED IN ASSEMBLY APRIL 9, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 718

Introduced by Assembly Member Pacheco

February 19, 2003

An act to amend Sections ~~1003~~, 1301, 4000, 9283, 9285, 13113, 17100, and 17304 of, to repeal Section 1502 of, and to repeal and add Sections 1500 and 1501 of, the Elections Code, and to amend Section ~~36512~~ of the Government Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 718, as amended, Pacheco. Elections: municipal elections.

(1) Existing law requires a special municipal election to fill a city council vacancy or certain vacancies in the office of mayor to be held on an established election date not less than 114 days from the call of the special election.

This bill would permit those elections to be held on dates other than an established election date if the election is to be conducted by the city elections official and would also permit any vacancy of an elected city office to be filled at that election.

(2) Existing law requires, with certain exceptions, a general municipal election to be held on the 2nd Tuesday in April of

even-numbered years or the first Tuesday after the first Monday in March of odd-numbered years.

This bill, instead, would require a general municipal election to be held on any established election date or on the 2nd Tuesday of April in each odd-numbered year. This bill would require a general municipal election held on the same date as a statewide election to be consolidated with that statewide election, thereby imposing a state-mandated local program.

(3)

(2) Existing law provides that several types of elections may be held wholly by mail, with certain conditions, including, but not limited to, the condition that the election does not occur on the same date as a statewide direct primary election or statewide general election.

This bill would, ~~in addition, permit a municipal election that is held to submit a measure or measures to a vote of the voters of a city to be held wholly by mail. It would~~ *instead*, provide that an election held wholly by mail must be held on an established mailed ballot election date as established by this bill.

(4)

(3) Existing law provides for the dates that a special district mailed ballot election may be held, with other requirements.

This bill, instead, would establish several dates as established mailed ballot election dates, and would provide that an election to choose members of the governing board of a special district that is to be conducted wholly by mail must be held on the last Tuesday in August of each odd-numbered year. The bill would further provide that an election may be held on the first Tuesday after the first Monday in November of each odd-numbered year if permitted by the elections official of counties affected by the use of all mailed ballots.

(5)

(4) Existing law allows a person or persons who filed an argument relating to a city ballot measure to file a rebuttal argument to arguments that oppose their position.

This bill would require the local elections official to send copies of an argument relating to a city measure that is to appear in the ballot pamphlet to the authors of any argument in opposition immediately upon receiving that argument. The bill would permit the author or a majority of the authors of an argument relating to a city measure to prepare and submit a rebuttal argument not exceeding 250 words or to authorize in writing any other person or persons to prepare, submit, or



sign a rebuttal argument. The bill would require a rebuttal argument relating to a city measure to be filed with the elections official 10 days after the final filing date for primary arguments. The bill would provide that a rebuttal argument relating to a city measure may not be signed by more than 5 persons, and would require the argument to be printed in the same manner as a direct argument, to immediately follow the direct argument which it seeks to rebut.

~~(6)~~

(5) Existing law provides that the order of candidates' names on the ballot of a special district, school district, charter city, or other local government body election, occurring on other than one of the 4 major election dates is determined by a special randomized alphabet drawing conducted by the Secretary of State, with certain requirements.

This bill would require the randomized alphabet drawn for purposes of the first election held by a charter city that holds 2 elections in the same 12-month period which occur on other than one of the 4 major election dates, to be used for both of those elections if the 2nd election within that 12-month period does not have a close of filing deadline, thereby creating a state-mandated local program. The bill would also provide that if 2 randomized alphabets are drawn for the same election, that the results of the second randomized alphabet drawing must be clearly set apart from the first and must be labeled "FOR USE IN A RUNOFF ELECTION ONLY."

(6) Existing law requires the preservation of nomination documents and signatures in lieu of filing fee petitions.

This bill would provide that those items may not be copied or distributed.

(7) Existing law requires the preservation of certain items related to a state or local election, and provides that voters may inspect these items at all times following the commencement of the official canvass of the votes of that election.

This bill would provide that items which contain signatures of may not be copied or distributed.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.



This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. ~~Section 1003 of the Elections Code is amended~~
2 ~~to read:~~
3 ~~1003. This chapter shall not apply to the following:~~
4 ~~(a) Any special election called by the Governor.~~
5 ~~(b) Elections held in chartered cities or chartered counties in~~
6 ~~which the charter provisions are inconsistent with this chapter.~~
7 ~~(c) School governing board elections consolidated pursuant to~~
8 ~~Section 1302.2 or initiated by petition pursuant to Section 5091 of~~
9 ~~the Education Code.~~
10 ~~(d) Elections of any kind required or permitted to be held by a~~
11 ~~school district located in a chartered city or county when the~~
12 ~~election is consolidated with a regular city or county election held~~
13 ~~in a jurisdiction that includes 95 percent or more of the school~~
14 ~~district's population.~~
15 ~~(e) County, municipal, district, and school district initiative,~~
16 ~~referendum, or recall elections.~~
17 ~~(f) Any election conducted solely by mailed ballot pursuant to~~
18 ~~Division 4 (commencing with Section 4000).~~
19 ~~(g) Elections held pursuant to Article 1 (commencing with~~
20 ~~Section 15100) of Chapter 1, or pursuant to Article 4 (commencing~~
21 ~~with Section 15340) of Chapter 2 of, Part 10 of the Education~~
22 ~~Code.~~
23 ~~(h) A special municipal election held pursuant to Section~~
24 ~~36512 of the Government Code to fill a vacancy in an elected city~~
25 ~~office, if the election is to be conducted by the city elections~~
26 ~~official.~~
27 SEC. 2. ~~Section 1301 of the Elections Code is amended to~~
28 ~~read:~~
29 1301. (a) Except as required by Section 57379 of the
30 Government Code, and except as provided in subdivision (b), a
31 general municipal election shall be held on an established election

date pursuant to Section 1000. If a general municipal election is held on the same date as a statewide election, that general municipal election shall be consolidated with the statewide election pursuant to Part 3 (commencing with Section 10400) of Division 10.

(b) (1) Notwithstanding subdivision (a), a city council may enact an ordinance, pursuant to Division 10 (commencing with Section 10000), requiring its general municipal election to be held on the same day as the statewide direct primary election, the day of the statewide general election, or on the day of school district elections as set forth in Section 1302. Any ordinance adopted pursuant to this subdivision shall become operative upon approval by the board of supervisors.

(2) In the event of consolidation, the general municipal election shall be conducted in accordance with all applicable procedural requirements of this code pertaining to that primary, general, or school district election, and shall thereafter occur in consolidation with that election.

(c) If a city adopts an ordinance described in subdivision (b), the municipal election following the adoption of the ordinance and each municipal election thereafter shall be conducted on the date specified by the city council, in accordance with subdivision (b), unless the ordinance in question is later repealed by the city council.

(d) If the date of a general municipal election is changed pursuant to subdivision (b), at least one election shall be held before the ordinance, as approved by the board of supervisors, may be subsequently repealed or amended.

~~SEC. 3.—~~

SEC. 2. Section 1500 of the Elections Code is repealed.

~~SEC. 4.—~~

SEC. 3. Section 1500 is added to the Elections Code, to read:
1500. The established mailed ballot election dates are as follows:

(a) The first Tuesday after the first Monday in May of each year.

(b) The first Tuesday after the first Monday in June of each even-numbered year.

(c) The last Tuesday in August of each year.

~~SEC. 5.—~~

1 *SEC. 4.* Section 1501 of the Elections Code is repealed.

2 ~~*SEC. 6.*~~—

3 *SEC. 5.* Section 1501 is added to the Elections Code, to read:

4 1501. An election to choose members of the governing board
5 of a special district that is to be conducted wholly by mail shall be
6 held on the last Tuesday in August of each odd-numbered year.
7 However, notwithstanding Section 1500, if approved by the local
8 elections official of the county or counties affected by the use of
9 all mailed ballots, the special district election may be held on the
10 first Tuesday after the first Monday in November of each
11 odd-numbered year. All other district elections conducted by
12 mailed ballots may be held in accordance with the dates set forth
13 in the district enabling act or may be consolidated with the general
14 district election.

15 ~~*SEC. 7.*~~—

16 *SEC. 6.* Section 1502 of the Elections Code is repealed.

17 ~~*SEC. 8.*~~—

18 *SEC. 7.* Section 4000 of the Elections Code is amended to
19 read:

20 4000. A local, special, or consolidated election may be
21 conducted wholly by mail provided that all of the following
22 conditions apply:

23 (a) The governing body of the local agency authorizes the use
24 of mailed ballots for the election.

25 (b) The election is held on an established mailed ballot election
26 date pursuant to Section 1500.

27 (c) The election is one of the following:

28 (1) An election in which no more than 1,000 registered voters
29 are eligible to participate.

30 (2) A maximum property tax rate election as provided for in
31 Section 2287 of the Revenue and Taxation Code.

32 (3) An election on a measure or measures restricted to (A) the
33 imposition of special taxes, or (B) expenditure limitation
34 overrides, or (C) both (A) and (B), in a city, county, or special
35 district with 5,000 or less registered voters calculated as of the time
36 of the last report of registration by the county elections official to
37 the Secretary of State.

38 (4) An election on the issuance of a general obligation water
39 bond in accordance with Section 12944.5 of the Water Code.



1 (5) An election of the Directors of the Monterey Peninsula
2 Water Management District as authorized in Section 122 of
3 Chapter 527 of the Statutes of 1977, known as the Monterey
4 Peninsula Water Management District Law.

5 (6) An election of the Aliso Water Management Agency, or its
6 affected member agencies, pursuant to Sections 13416 and 13417
7 of the Water Code.

8 (7) An election of the San Jacinto Mountain Area Water Study
9 Agency pursuant to Sections 13416 and 13417 of the Water Code.

10 (8) An election of the San Lorenzo Valley Water District
11 pursuant to Sections 13416 and 13417 of the Water Code.

12 (9) An election or assessment ballot proceeding required or
13 authorized by Article XIII C or XIII D of the California
14 Constitution. However, when an assessment ballot proceeding is
15 conducted by mail pursuant to this section, the following rules
16 apply:

17 (A) The proceeding shall be denominated an “assessment
18 ballot proceeding” rather than an election.

19 (B) Ballots shall be denominated “assessment ballots.”

20 ~~(10) A municipal election that is held to submit a measure or~~
21 ~~measures to a vote of the voters of a city.~~

22 ~~SEC. 9.—~~

23 *SEC. 8.* Section 9283 of the Elections Code is amended to
24 read:

25 9283. A ballot argument shall not be accepted under this
26 article unless accompanied by the printed name and signature or
27 printed names and signatures of the author or authors submitting
28 it, or, if submitted on behalf of an organization, the name of the
29 organization and the printed name and signature of at least one of
30 its principal officers who is the author or authors of the argument.

31 No more than five signatures may appear with any argument
32 submitted under this article. If an argument is signed by more than
33 five persons, the signatures of the first five shall be printed.

34 ~~SEC. 10.—~~

35 *SEC. 9.* Section 9285 of the Elections Code is amended to
36 read:

37 9285. (a) (1) When the elections official receives an
38 argument relating to a city measure that will be printed in the ballot
39 pamphlet, the elections official shall send a copy of an argument
40 in favor of the proposition to the authors of any argument against

1 the measure and copies of an argument against the measure to the
2 authors of any argument in favor of the measure immediately upon
3 receiving the arguments.

4 (2) The author or a majority of the authors of an argument
5 relating to a city measure may prepare and submit a rebuttal
6 argument not exceeding 250 words or may authorize in writing any
7 other person or persons to prepare, submit, or sign the rebuttal
8 argument.

9 (3) A rebuttal argument relating to a city measure shall be filed
10 with the elections official no later than 10 days after the final filing
11 date for primary arguments.

12 (4) A rebuttal argument relating to a city measure may not be
13 signed by more than five persons and shall be printed in the same
14 manner as a direct argument and shall immediately follow the
15 direct argument which it seeks to rebut.

16 (b) Subdivision (a) applies only if, not later than the day on
17 which the legislative body calls an election, the legislative body,
18 adopts its provisions by majority vote, in which case subdivision
19 (a) applies at the next ensuing municipal election and at each
20 municipal election thereafter, unless later repealed by the
21 legislative body in accordance with the procedures of this
22 subdivision.

23 ~~SEC. 11.~~

24 *SEC. 10.* Section 13113 of the Elections Code is amended to
25 read:

26 13113. (a) In the case of an election of candidates in a special
27 district, school district, charter city (whose charter does not
28 provide to the contrary), or other local government body,
29 occurring on other than one of the four major election dates
30 specified in subdivision (b) of Section 13112, the official
31 responsible for conducting the election shall, at the same time that
32 the election is called, notify the Secretary of State by registered
33 mail of the date of the election, the date of the close of filing, and
34 the last possible date for filing in the event there is an extension of
35 filing due to an incumbent failing to file. The Secretary of State
36 shall conduct a randomized alphabet drawing on the first weekday
37 following the last possible day of filing for an election according
38 to subdivision (a) of Section 13112.

39 (b) Except as provided for runoff elections in subdivision (d),
40 if two or more drawings for local government elections would

1 occur on the same date, the Secretary of State may use a single
2 randomized alphabet drawing for all of these elections. The
3 Secretary of State shall communicate the results of the drawing by
4 registered mail to each respective official responsible for
5 conducting the election who shall use it to determine the order on
6 the ballot of all candidates' names.

7 (c) All drawings held pursuant to this section shall be open to
8 the public.

9 (d) If two randomized alphabets are drawn for the same
10 election, the results of the second randomized alphabet drawing
11 shall be clearly set apart from the first and shall be labeled "FOR
12 USE IN A RUNOFF ELECTION ONLY."

13 ~~SEC. 12.~~—

14 *SEC. 11.* Section 17100 of the Elections Code is amended to
15 read:

16 17100. (a) All nomination documents and signatures in lieu
17 of filing fee petitions filed in accordance with this code shall be
18 held by the officer with whom they are filed during the term of
19 office for which they are filed and for four years after the
20 expiration of the term.

21 (b) Thereafter, the documents and petitions shall be destroyed
22 as soon as practicable unless they either are in evidence in some
23 action or proceeding then pending or unless the elections official
24 has received a written request from the Attorney General, the
25 Secretary of State, the Fair Political Practices Commission, a
26 district attorney, a grand jury, or the governing body of a county,
27 city and county, or district, including a school district, that the
28 documents and petitions be preserved for use in a pending or
29 ongoing investigation into election irregularities, the subject of
30 which relates to the placement of a candidate's name on the ballot,
31 or in a pending or ongoing investigation into a violation of the
32 Political Reform Act of 1974 (Title 9 (commencing with Section
33 81000) of the Government Code).

34 (c) Public access to the items described in subdivision (a) shall
35 be limited to viewing of the document only. The public may not
36 copy or distribute copies of items described in subdivision (a) that
37 contain signatures of voters.

38 ~~SEC. 13.~~—

39 *SEC. 12.* Section 17304 of the Elections Code is amended to
40 read:

1 17304. (a) The following provisions shall apply to all state or
2 local elections not provided for in subdivision (a) of Section
3 17303. An election is not deemed a state or local election if votes
4 for candidates for federal office may be cast on the same ballot as
5 votes for candidates for state or local office.

6 (b) The elections official shall preserve the package or
7 packages containing the following items for a period of six
8 months:

9 (1) Two tally sheets.

10 (2) The copy of the index used as the voting record.

11 (3) The challenge lists.

12 (4) The assisted voters list.

13 (c) All voters may inspect the contents of the package or
14 packages at all times following commencement of the official
15 canvass of the votes, except that items which contain signatures of
16 voters may not be copied or distributed.

17 (d) If a contest is not commenced within the six-month period,
18 or if a criminal prosecution involving fraudulent use, marking or
19 falsification of ballots, or forgery of absent voters' signatures is
20 not commenced within the six-month period, either of which may
21 involve the vote of the precinct from which voted ballots were
22 received, the election official may have the packages destroyed or
23 recycled.

24 ~~SEC. 14. Section 36512 of the Government Code is amended~~
25 ~~to read:~~

26 ~~36512. (a) If a vacancy occurs in an appointive office~~
27 ~~provided for in this chapter, the council shall fill the vacancy by~~
28 ~~appointment. A person appointed to fill a vacancy holds office for~~
29 ~~the unexpired term of the former incumbent.~~

30 ~~(b) If a vacancy occurs in an elective office provided for in this~~
31 ~~chapter, the council shall, within 30 days from the commencement~~
32 ~~of the vacancy, either fill the vacancy by appointment or call a~~
33 ~~special election to fill the vacancy. The special election shall be~~
34 ~~held, in accordance with subdivision (c), not less than 114 days~~
35 ~~from the call of the special election. A person appointed or elected~~
36 ~~to fill a vacancy holds office for the unexpired term of the former~~
37 ~~incumbent.~~

38 ~~(c) Notwithstanding subdivision (b) and Section 34902, a city~~
39 ~~may enact an ordinance which:~~

1 ~~(1) Requires that a special election be called immediately to fill~~
2 ~~every city council vacancy, the office of mayor designated~~
3 ~~pursuant to Section 34902, and any other vacancy in an elected city~~
4 ~~office. The ordinance shall provide that the special election shall~~
5 ~~be held for the purpose of filling a vacancy in an elected city office,~~
6 ~~in accordance with subdivision (c), not less than 114 days from the~~
7 ~~call of the special election.~~

8 ~~(2) Requires that a special election be held to fill a city council~~
9 ~~vacancy and the office of mayor designated pursuant to Section~~
10 ~~34902 when petitions bearing a specified number of verified~~
11 ~~signatures are filed. The ordinance shall provide that the special~~
12 ~~election shall be held for the purpose of filling a vacancy in an~~
13 ~~elected city office, in accordance with subdivision (c), not less than~~
14 ~~114 days from the filing of the petition. A governing body which~~
15 ~~has enacted an ordinance may also call a special election pursuant~~
16 ~~to subdivision (b) without waiting for the filing of a petition.~~

17 ~~(3) Provides that a person appointed to fill a vacancy on the city~~
18 ~~council and the office of mayor designated pursuant to Section~~
19 ~~34902 holds office only until the date of a special election which~~
20 ~~shall immediately be called to fill the remainder of the term. The~~
21 ~~special election shall be held for the purpose of filling a vacancy~~
22 ~~in an elected city office, in accordance with subdivision (c), not~~
23 ~~less than 114 days from the call of the special election.~~

24 ~~(d) (1) Notwithstanding subdivision (b) and Section 34902, an~~
25 ~~appointment shall not be made to fill a vacancy on a city council~~
26 ~~if the appointment would result in a majority of the members~~
27 ~~serving on the council having been appointed. The vacancy shall~~
28 ~~be filled in the manner provided by this subdivision.~~

29 ~~(2) The city council may call an election to fill the vacancy, to~~
30 ~~be held for the purpose of filling a vacancy in an elected city office,~~
31 ~~in accordance with subdivision (c), not less than 114 days after the~~
32 ~~call.~~

33 ~~(3) If the city council does not call an election pursuant to~~
34 ~~paragraph (2), the vacancy shall be filled at the next regularly~~
35 ~~established election date occurring not less than 114 days from the~~
36 ~~call of the special election.~~

37 ~~(e) A special election held pursuant to this section may be held~~
38 ~~on any of the following dates:~~

39 ~~(1) The date of the next regular municipal election.~~

1 ~~(2) The date of the next regularly established election date~~
2 ~~pursuant to Section 1000.~~

3 ~~(3) A date other than a regularly established election date if the~~
4 ~~election is conducted by the city.~~

5 ~~SEC. 11.—~~

6 *SEC. 13.* Notwithstanding Section 17610 of the Government
7 Code, if the Commission on State Mandates determines that this
8 act contains costs mandated by the state, reimbursement to local
9 agencies and school districts for those costs shall be made pursuant
10 to Part 7 (commencing with Section 17500) of Division 4 of Title
11 2 of the Government Code. If the statewide cost of the claim for
12 reimbursement does not exceed one million dollars (\$1,000,000),
13 reimbursement shall be made from the State Mandates Claims
14 Fund.

